



May 8, 2013

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Jocelyn Boyd, Chief Clerk/Administrator  
Public Service Commission of South Carolina  
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**Re: NDI 2013-6-C**

Dear Ms. Boyd:

I am writing on behalf of the South Carolina Cable Television Association to respond to letters sent by the Office of Regulatory Staff and South Carolina Telephone Coalition on May 3, 2013. The position of the SCCTA continues to be that a docketed, contested case proceeding should be initiated to consider the USF issues raised by the ORS and SCTC correspondence. I will not repeat the arguments in my previous letter but will respond to several points made in the May 3<sup>rd</sup> letters.

- The May 3<sup>rd</sup> letters confirm that the Commission should open a contested case proceeding. Although this inquiry is being treated as a non-docketed matter, legal arguments have been made, exhibits have been submitted and there is now a motion pending. However, all of this activity is occurring without any of the normal procedural steps having been taken to ensure that interested parties are given notice and an opportunity to be heard.
- The ORS and SCTC letters both acknowledge that the USF annual filings, by at least some of the Carriers of Last Resort ("COLRs"), show a discrepancy between the sums shown on those forms and the sums actually received by the COLRs. Both ORS and SCTC assert that the discrepancy doesn't matter, yet their actions indicate otherwise: ORS felt compelled to report the discrepancy to this Commission and the SCTC commissioned new cost studies so that their annual filings could be revised, presumably in an effort to eliminate the discrepancy.
- It appears that the USF is not being operated in a manner that is consistent with S. C. Code Section 58-9-280(E): subsection (4) requires annual cost filings by COLRs; subsection (6) requires COLRs seeking reimbursements from the USF to submit cost information to justify their requests; subsection (7) calls for yearly reconciliations of contribution and distribution levels. If, as is now being suggested by ORS and SCTC, the annual filings are not an accurate reflection of the COLRs' costs then there is simply no meaningful oversight of the USF and the COLR reimbursement requests are improper.

- Both the letters of ORS and SCTC assert that there is no need for any investigation of the USF because the COLRs are receiving sums approved by this Commission. The letters suggest that there are Commission orders that allow COLRs to continue to receive specific sums, apparently in perpetuity. The Commission orders don't provide any such thing. The orders approved a reimbursement process that included close oversight through the annual filings by COLRs. If the annual filings are not related to the amounts received by the COLRs then the orders are being violated in addition to the statutory violations discussed above.

We urge the Commission to open a docket to investigate the issues that have been raised regarding the operation of the USF.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

A handwritten signature in black ink, appearing to read 'Frank R. Ellerbe, III', written in a cursive style.

Frank R. Ellerbe, III

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cc: Nanette S. Edwards, Esquire (via e-mail)  
M. John Bowen, Jr., Esquire (via e-mail)